HON'BLE SHRI JUSTICE NOOTY RAMAMOHANA RAO

W.P. No.7195 of 1995

27.6.2007

Between

P.Venkata Rao ..Petitioner

AND

The District Collector, Vizianagaram District and others ..Respondents

:: JUDGMENT ::

HON'BLE SHRI JUSTICE NOOTY RAMAMOHANA RAO

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W.P. No.7195 of 1995

This writ petition has been instituted questioning the orders passed by the General Manager, Vishakha Refinery, Hindustan Petroleum Corporation Limited (for short, 'the H.P.C.L.') on 6.3.1995 initiating disciplinary action against the writ petitioner for having secured employment with the H.P.C.L. on the strength and basis of a false and forged caste certificate said to have been issued in his favour by the Tahsildar, S.Kota recognizing him as a member belonging to scheduled tribe. As part of the verification exercise, the H.P.C.L. at Vishakhapatnam appears to have requested the District Collector, Vizianagaram to conduct an enquiry discreetly into the genuineness of the certificate produced by the writ petitioner. The District Collector through his proceedings dated 25.7.1989 had informed the H.P.C.L. that the certificate bearing No.SB 42/89 A dated 28.2.1989 is a forged and fabricated one. The Collector also asserted that such certificate has not been issued by the Mandal Revenue Officer, Vepada at all. The learned counsel for the writ petitioner would contend that the District Collector has not provided him with any opportunity to controvert the serious allegations leveled against him. Therefore, the orders passed by the District Collector on 25.7.1989 informing adversely against the petitioner to his employer is in direct conflict with the

principles of natural justice and hence, it cannot form the basis for the disciplinary action initiated by the H.P.C.L.

In opposition, the learned Government Pleader for Social Welfare has stoutly resisted the claim and pointed out that the verification which was undertaken by the District Collector, Vizianagaram is not with regard to the social status of the writ petitioner, but with regard to the genuineness of the certificate said to have been produced by the writ petitioner and if the certificate itself is not a genuine one, the question of undertaking any further enquiry into the social status of the writ petitioner would not arise. It is needless to mention that if the certificate dated 28.2.1989 produced by the writ petitioner claiming that he is a member belonging to the scheduled tribe is not a genuine certificate, but is a fabricated one, the question of determining the social status of the writ petitioner does not arise. But for the certificate dated 28.2.1989, claim made by the writ petitioner that he is a member belonging to the scheduled tribe is not supported by any other evidence. Therefore, before reaching to a conclusion that the certificate dated 28.2.1989 is a fabricated one, the District Collector ought to have provided an opportunity to the writ petitioner, so that he could have laid the necessary material in support of his claim that the certificate dated 28.2.1989 is a genuine one.

Any order which has the capacity of visiting the writ petitioner with grave and evil consequences, such as in this case, requires a pre-decisional hearing. That will be in compliance with the basic requirement of the principles of natural justice. An opportunity is required to be provided so that the writ petitioner can produce any supporting material to

convince the authority that the certificate, which is in his possession and produced by him, is not a fabricated one, but a genuine one. Therefore, such an opportunity should have been afforded to the writ petitioner. For this reason, I consider it appropriate that the writ petitioner should be provided a fair chance of establishing his claim.

In the instant case, the learned Government Pleader places reliance upon the instructions received by him from the Mandal Revenue Officer, Vepada which is to the following effect:

> "It is submitted that the petitioner caused production of certificate bearing SR No.42/89 dt.28.2.1989 alleged to have been issued by the M.R.O., Vepada instead of original certificate issued by the Tahsidlar, S.Kota speaking about his caste before the authority of the Corporation. But no certificate bearing S.R.No.42/1989 was issued to the petitioner on 28.2.1989 from this Office. The certificate bearing SR No.42/1989 was issued on 23.5.1989 in favour of Sivannarayana of Vallampudi village of Vepada Mandal but not to the petitioner."

It is therefore appropriate that the writ petitioner shall appear before the Mandal Revenue Officer, Vepada on 30.7.2007 and produce all the material which is in his support and establish that the certificate dated 28.2.1989 is a genuine and a valid certificate. The Mandal Revenue Officer, Vepada is directed to complete the enquiry as expeditiously as possible on 30.7.2007 or on any other subsequent date or dates, but however, the same be concluded before 31.8.2007. On every such date subsequent to 30.7.2007, whenever the Mandal Revenue Officer, Vepada proposes to conduct the enquiry, he

shall inform the writ petitioner and the writ petitioner shall appear before the Mandal Revenue Officer without fail on the date so informed. The Mandal Revenue Officer shall finalize his report before 31.8.2007 and file it before the District Collector, Vizianagaram. Based thereon, the District Collector will pass final orders as to whether the certificate bearing No.SB 42/89 A dated 28.2.1989 produced by the writ petitioner is a genuine one or not. If the District Collector comes to the conclusion that the certificate produced by the petitioner is not a genuine one or is a fabricated one, as is now alleged, he shall pass final orders in that regard and since any such conduct of producing false or fabricated certificates invites penal consequences in terms of Section 10 of the Andhra Pradesh (SC, ST and BCs) Regulation of Issue of Community Certificates Act, 1993, the District Collector, Vizianagaram shall also lodge a formal complaint with the local police to prosecute the writ petitioner in accordance with Section 10 of the said Act.

In this view of the matter, the H.P.C.L. shall not proceed further in the disciplinary proceedings initiated by them against the writ petitioner till such time, the District Collector, Vizianagaram passes final orders and based upon the findings recorded by the District Collector, further action which is considered appropriate, be followed up.

With this, the writ petition stands disposed of. No costs.

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NOOTY RAMAMOHANA RAO.J.

27.6.2007
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